

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

28739

FILE: B-213865

DATE: July 9, 1984

MATTER OF: Rolm Corporation

DIGEST:

Sole-source negotiated procurement was justified where agency had an urgent need which had to be satisfied within a definite timeframe and where record indicates that agency determination that only one source was available was not unreasonable.

Rolm Corporation (Rolm) protests the sole-source award of contract No. MDA903-84-C-0053 to AT&T Information Systems (AT&T) by the Defense Supply Service (DSS) for the installation, lease and maintenance of a Dimension 2000 Private Branch Exchange (PBX) System at the new Defense Intelligence Analysis Center (DIAC), Bolling Air Force Base. The PBX 2000 is a secure telephone system.

We deny the protest.

DSS justifies the noncompetitive award to AT&T on two grounds. First, DSS argues that AT&T has the only on-premises PBX system which has been tested by the Inter-Agency Telephone Laboratory of the Federal Bureau of Investigation (FBI) and determined to fulfill all DIAC security requirements. DSS indicates that the FBI's laboratory is the organization which determines for government agencies whether particular telephone equipment satisfies requisite security requirements. DSS states that at the time the need was identified, AT&T had the only PBX equipment which had been tested and certified by the Inter-Agency Laboratory as meeting all DIAC security requirements.

Second, DSS argues that time did not permit a competitive procurement. Originally, it was intended to extend the Centrex services provided by the C&P Telephone Company to most defense buildings in the metropolitan area to the new DIAC building. In May 1983, however, this plan had to be changed when it was discovered that the specially designed security devices that were to be used on the Centrex lines would not become commercially available until well after the June 1, 1984, building occupancy date.

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Since a secure telephone system had to be operational by that date, DSS states that a contract award date of November 1, 1983, was required in order to insure timely delivery of the PBX system. DSS indicates that the testing of any other vendor's equipment by the Inter-Agency Laboratory would have taken at least 8-12 months and that such a delay was clearly unacceptable. Under these circumstances, DSS contends that its decision to procure the equipment sole-source was not unreasonable.

Rolm argues that its system is capable of meeting the agency's needs. Although its equipment has not been certified by the FBI's Inter-Agency Laboratory, Rolm contends that its equipment has been installed at locations with the highest security requirements. In addition, Rolm indicates that its equipment has been certified under the National Security Agency's Industrial Tempest Program and Rolm argues that certification under this program is an alternative to testing by the Inter-Agency Laboratory. Rolm contends that other sources were available which could have provided the equipment within the timeframe required by the agency. As a result, Rolm argues that the sole-source award was not justified.

As a general matter, government procurements must be conducted on a competitive basis to the maximum extent practicable. See Federal Data Corporation, 59 Comp. Gen. 283 (1980), 80-1 C.P.D. ¶ 167. We have held, however, that sole-source acquisitions may be authorized where (1) the procuring agency's minimum needs can be met only by items or services that are unique, (2) time is of the essence and only one known source can meet the agency's needs within the required timeframe, (3) a sole-source award is necessary to insure compatibility between the procured item and existing equipment, or (4) an award to other than the proposed sole-source contractor would pose unacceptable technical risks. Cerberonics, B-205063, Apr. 14, 1982, 82-1 C.P.D. ¶ 345.

Because competitive procurements are preferred, our Office will scrutinize closely a sole-source determination. Kent Watkins and Associates, Inc., B-191078, May 17, 1978, 78-1 C.P.D. ¶ 377. The standard we apply in determining the propriety of a sole-source award is one of reasonableness, i.e., unless it can be shown that the contracting agency acted without a reasonable basis, our

Office will not question the decision to procure on a sole-source basis. Federal Data Corporation, 59 Comp. Gen. 285, 80-1 C.P.D. ¶ 167 at 4.

In the present case, we cannot find that the contracting agency acted without a reasonable basis. DSS had an urgent need for a secure telephone switch and a definite timeframe within which that need had to be satisfied. Although Rolm argues that the urgency was due to the agency's own actions, we note that the fact that an agency's own actions contribute to a situation that ultimately requires a sole-source award does not make the sole-source determination improper. Worldwide Marine, Inc., B-212640, Feb. 7, 1984, 84-1 C.P.D. ¶ 152.

Furthermore, we cannot find that the agency's reliance on information provided by the FBI's Inter-Agency Laboratory was improper. The record indicates that DSS conducted additional discussions with the National Security Agency and with the Defense Communications Agency in order to confirm that only one source was available and that a sole-source procurement was justified. While Rolm argues that this determination is not correct, an agency may justify a sole-source award if it shows that it reasonably believed at the time of award that there clearly was but one source of supply. ROLM Corporation and Fisk Telephone Systems, Inc., B-202031, Aug. 26, 1981, 81-2 C.P.D. ¶ 180. Under the totality of the circumstances, we cannot conclude that DSS acted unreasonably in negotiating with a single source.

Finally, we note that DSS is in the process of preparing a solicitation for telecommunication services for the entire Department of Defense in the National Capital Region. This procurement is expected to include the new DIAC building and, consequently, the requirement at issue here will be the subject of a competitive procurement in the near future.

The protest is denied.

Milton J. Aroskar
for Comptroller General
of the United States